

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**October 26, 2005**

DIVISION ONE

Court convened at 9:00 a.m.

Present: Spencer, P.J., Vogel (Miriam A.), J., Mallano, J., Rothschild, J. and S. Stahl,  
Deputy Clerk.

B175400      Aguilar v. Circus Disco & Arena et al.

Argument waived, cause submitted.

B172753      Ronnie Lewis III  
v.  
City of Los Angeles et al.

Merits:

Argued by Edi M.O. Faal for appellant and by Amy Joe Field, Deputy City  
Attorney, for respondents. Cause submitted.

B181378      Cardenas  
v.  
Noonan

Merits:

Argued by John L. Dodd for appellant and by James L. Keane for  
respondent. Cause submitted.

DIVISION ONE (Continued)

B176076     Mahir  
              v.  
              Karamigos

Merits:

Argued by Renee L. Campbell for appellant and by Joel B. Douglas for respondent. Cause submitted.

Spencer, P.J., leaves the bench.

B177187     Cal-Western Reconveyance Corp.  
              v.  
              Szulczewski

Merits:

Argued by Christopher P. Blaxland for appellant and by Barry Vansickle for respondent. Cause submitted.

B174237     Terasku, Inc.  
              v.  
              1875/1925 Century Park East Company et al.

Merits:

Argued by Rita Gunasekaran for appellants and by Robert G. Klein for respondent. Cause submitted.

Spencer, P.J., returns to the bench.

Mallano, J., leaves the bench.

B180415     In re Rocha  
              on  
              Habeas Corpus

Merits:

Argued by Robert A. Long for petitioner and by David A. Voet, Deputy Attorney General, for real party in interest. Cause submitted.

## DIVISION ONE (Continued)

Mallano, J., returns the bench.

Vogel, J., leaves the bench.

B176576      Dino's Victory Roadhouse, Inc. et al.  
v.  
City of Los Angeles

Merits:

Argued by Roger Jon Diamond for appellants and by Steven Blau for respondent. Cause submitted.

Court adjourned.

B181667 People (Not for Publication)  
v.  
Joseph M. Keating

The judgment is affirmed.

Rothschild, J.

We concur: Spencer, P.J.  
Vogel (Miriam A.), J.

B182329 People (Not for Publication)  
v.  
Lester P. Blake

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Mallano, J.

I concur: Rothschild, J.  
I concur in the judgment only: Vogel (Miriam A.), J.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Rothschild, J.

Mallano, J.

I concur: Spencer, P.J.  
I concur in the judgment only: Vogel (Miriam A.), J.

October 26, 2005 (Continued)

## DIVISION ONE (Continued)

B181531 People (Not for Publication)  
v.  
Ricky Brown

The judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.  
Rothschild, J.

B178011      People                                  (Not for Publication)  
v.  
Jimmie Andre Moran

The judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.  
Rothschild, J.

B180438      The People      (Not for Publication)  
v.  
Jamerson C.

The order under review is affirmed.

Mallano, Acting P.J.

We concur: Vogel (Miriam A.), J.  
Rothschild, J.

B176312 Daniel Lutynski  
v.  
Russell K. Silverling et al.

Filed order denying petition for rehearing.

October 26, 2005 (Continued)

## DIVISION ONE (Continued)

B178358 People (Not for Publication)  
v.  
Audrey P.

The order is affirmed.

Vogel (Miriam A.), J.

We concur:   Mallano, Acting P.J.  
                      Rothschild, J.

B182387      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Tanya T.

The order is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Mallano, J.

B184833      Lisa D.      (Not for Publication)  
v.  
Superior Court, Los Angeles County  
(Los Angeles County Department  
of Children & Family Services, r.p.i.)

The petition is denied.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Mallano, J.

DIVISION TWO

B180675      Doyle                      (Not for Publication)  
v.  
Cohen

The judgment is affirmed. Respondent shall recover her costs and attorney fees on appeal. The matter is remanded to the trial court for a determination of attorney fees.

Doi Todd, J.

We concur: Boren, P.J.  
Ashmann-Gerst, J.

B182067      Deane et al.      (Not for Publication)  
v.  
Lubow

The judgment in favor of Lubow is reversed and remanded with instructions to the trial court to vacate its order sustaining the demurrer to the sixth cause of action, and to enter an order overruling the demurrer to the sixth cause of action. Appellants to recover their costs on appeal.

Doi Todd, J.

We concur: Boren, P.J.  
Ashmann-Gerst, J.

B179792      Felsher      (Not for Publication)  
v.  
Bianco

The order is affirmed. Respondent(s) to recover costs.

Doi Todd, J.

We concur:   Boren, P.J.  
                  Ashmann-Gerst, J.

## DIVISION TWO (Continued)

B177623      People      (Not for Publication)  
v.  
Hollis

The judgment is affirmed.

Doi Todd, J.

We concur:   Boren, P.J.  
                    Ashmann-Gerst, J.

B179409 People (Not for Publication)  
v.  
Ortiz

The judgment is affirmed.

Doi Todd, J.

We concur: Boren, P.J.  
Ashmann-Gerst, J.

B176067 People (Not for Publication)  
v.  
Carraway

The judgment is affirmed.

Doi Todd, J.

We concur:   Boren, P.J.  
                    Ashmann-Gerst, J.



## DIVISION TWO (Continued)

B182140 People (Not for Publication)  
v.  
Richards

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The Court:

The order under review is affirmed.

Boren, P.J., Doi Todd, J., Ashmann-Gerst, J.

B172394      Garamendi      (Not for Publication)  
v.  
Superior National Insurance  
Seaman et al.

The judgment is affirmed. The purported appeal from the order denying reconsideration is dismissed.

Boren, P.J.

We concur: Ashmann-Gerst, J.  
Suzukawa, J. (Assigned)

B181734      Los Angeles County, D.C.S.  
v.  
Jose C.

B181745      Los Angeles County, D.C.S.  
v.  
Jose C.

Filed order consolidating above captioned appeals.

DIVISION THREE

B170718 People (Not for Publication)  
v.  
Kleisley

The order extending commitment is affirmed.

Kitching, J.

We concur: Klein, P.J.  
Croskey, J.

B173899      David Alexander, et al      (Not for Publication)  
v.  
City of Los Angeles,

The judgment is affirmed. Each party to bear their own costs.

Croskey, J.

We concur: Klein, P.J.  
Aldrich, J.

DIVISION FOUR

B174088      Mraz      (Not for Publication)  
v.  
Catalina Channel Express, Inc.

The judgment is affirmed. Mraz shall recover her costs on appeal.

Willhite, J.

We concur:   Hastings, Acting P.J.  
                  Curry, J.

DIVISION FOUR (Continued)

B184392      Eastman Kodak Company      (Not for Publication)

v.  
Superior Court, Los Angeles County  
(Douglas Wilson et al., r.p.i.)

The order to show cause is discharged and the petition is denied. Real party shall have costs.

Hastings, J.

We concur: Epstein, P.J.  
Willhite, J.

B179978      Ovitz et al.      (Not for Publication)

v.  
Schulman

The orders vacating the arbitration award and denying reconsideration are affirmed.

Willhite, J.

We concur: Hastings, Acting P.J.  
Curry, J.

B173406      People      (Not for Publication)

v.  
Sandoval

The judgment is affirmed.

Hastings, J.

We concur: Epstein, P.J.  
Curry, J.

October 26, 2005 (Continued)

## DIVISION FOUR (Continued)

B181397 People (Not for Publication)  
v.  
Fromer

The judgment is affirmed.

Willhite, J.

We concur: Epstein, P.J.  
Hastings, J.

B177403 People (Not for Publication)  
v.  
Martinez

The judgment is affirmed.

Curry, J.

We concur: Epstein, P.J.  
Willhite, J.

## DIVISION FIVE

B178108 People (Not for Publication)  
v.  
Jaques Fearance

The judgment is affirmed.

Turner, P.J.

We concur: Armstrong, J.  
Kriegler, J.

DIVISION SIX

Court convened at 1:30 P.M. in the Santa Barbara County Board of Supervisors Hearing Room.

Present: Gilbert, P.J., Yegan, J., Coffee, J., Perren, J. and G. Bents, Senior Deputy Clerk.

B184797      Citizens For a Safe & Affordable Environment  
                 v.  
                 San Luis Obispo Co. Superior Court (Los Osos Community Services Dist.)

Presentation continued to December, 2005.

B178934      Lindgren  
                 v.  
                 Those Guys, Inc.

Merits:

Argued by Henry J. Bongiovi for appellant and by Pauline Maxwell for respondent. Cause submitted.

B181252      Harrison  
                 v.  
                 Retirement Board of the Santa Barbara Co. Employees' Retirement System

Merits:

Argued by Russell R. Ghitterman for appellant and by Alan A. Blakeboro for respondent. Cause submitted.

B175149      Dunn  
                 v.  
                 Santa Barbara Co.

Merits:

Argued by Diane Matsinger and Ken Bornhold, with the court's permission, for appellant and by Alan L. Seltzer, Chief Assistant County Counsel, for respondent. Cause submitted.

DIVISION SIX (Continued)

Court recessed at 3:15 P.M.

Court reconvened at 3:25 P.M.

Present: Gilbert, P.J., Yegan, J., Coffee, J., Perren, J. and G. Bents, Senior Deputy Clerk.

B175432      City of Solvang  
                 v.  
                 Public Employees' Retirement System

Merits:

Argued by Michael R. Jencks for appellant; by Rory J. Coffey, Senior Staff Counsel, for respondent Public Employee's Retirement System; and Kimberly S. Daniels for respondent Daniels. Cause submitted.

B175939      Red Willow-Santa Barbara Partnership  
                 v.  
                 Gerard

Merits:

Argued by Arnold Henry Lancaster for appellant and by Jack L. Collison for respondents. Cause submitted.

B179572      Greka Integrated Inc.  
                 v.  
                 Lowrey

Merits:

Argued by Jeffrey B. Valle for appellant and by Brigham Joel Ricks for respondent. Cause submitted.

Yegan, J. left the bench.

## DIVISION SIX (Continued)

B180636 Home on Wheels  
v.  
City of Santa Barbara

Merits:

Argued by Michelle Montez, Assistant City Attorney, for appellants and by Joseph D. Allen for respondents. Cause submitted.

Court adjourned.

B179518 People v. Aguilar (Not for Publication)

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.  
Perren, J.

B177462 Fishback et al., (Certified for Publication)  
v.  
County of Ventura

The judgment is affirmed. Costs on appeal are awarded to respondent.

Gilbert, P.J.

We concur: Coffee, J.  
Perren, J.

## DIVISION SEVEN

B175913 People v. Eleby (Not for Publication)

The judgment is reversed. On remand the trial court is to conduct an in camera inspection of the requested personnel files for relevance with respect to complaints concerning the use of excessive force and incidents of dishonesty. If the trial court's inspection on remand reveals no relevant information, the trial court is to reinstate the judgment of conviction. If the inspection reveals relevant information, the trial court must order disclosure, allow Eleby an opportunity to demonstrate prejudice and order a new trial if there is a reasonable probability the outcome would have been different had the information been disclosed.

Perluss, P.J.

We concur:   Johnson, J.  
                          Zelon, J.

B180362 Hill (Not for Publication)  
B180363 v.  
City of Glendale

The judgments are reversed. The orders sustaining the demurrers without leave to amend as to the causes of action for inverse condemnation are affirmed. The orders sustaining the demurrers without leave to amend as to the causes of action for negligence and negligent infliction of emotional distress are reversed. On remand the trial court is directed to enter a new order sustaining the demurrers to the negligence causes of action with leave to amend, to consolidate the two actions and to conduct further proceedings not inconsistent with this opinion. Each side is to bear its own costs on appeal.

Perluss, P.J.

We concur:   Johnson, J.  
                      Woods, J.



DIVISION SEVEN (Continued)

B175552      In re Kara G., a minor      (Not for Publication)  
Los Angeles County, D.C.S.  
v.  
Percy W.

The juvenile court's orders are affirmed.

Perluss, P.J.

We concur:   Johnson, J.  
                      Woods, J.

B178744      Greyhound Lines, Inc.      (Not for Publication)  
v.  
City of Los Angeles

The judgment is affirmed. The order staying enforcement of the Department of Building and Safety's order to comply during the pendency of Greyhound's appeal is vacated. The City of Los Angeles and the Department of Building and Safety are to recover their costs on appeal.

Perluss, P.J.

We concur:   Johnson, J.  
                              Zelon, J.

B180319      Chew      (Not for Publication)  
v.  
International Norcent Technology, Inc.

The judgment is reversed. Appellant(s) to recover costs.

Johnson, Acting P.J.

We concur: Woods, J.  
Zelon, J.

## DIVISION SEVEN (Continued)

B181884      Connella                      (Not for Publication)  
v.  
Golden

The order denying appellant's order to show cause for modification of visitation is affirmed. Respondent is entitled to recover costs on appeal.

Johnson, J.

We concur: Perluss, P.J.  
Zelon, J.

[illegible]

The judgment is affirmed.

Johnson, Acting P.J.

We concur: Woods, J.  
Zelon, J.

B175034      Castro      (Not for Publication)  
v.  
Spiniello Companies

The judgment is reversed and the cause remanded for further proceedings consistent with this opinion. Appellant is entitled to recover costs on appeal.

Johnson, Acting P.J.

We concur: Woods, J.  
Zelon, J.

DIVISION SEVEN (Continued)

B184247      Hall      (Certified for Publication)

V.

Superior Court, Los Angeles County  
(The People, r.p.i.)

The petition is granted. Let a peremptory writ of mandate issue directing the superior court to calendar petitioner's *Pitchess* motion and to thereafter rule on the merits of the motion; and further to preclude any further enforcement of the rule or policy setting presumption motion cut-off date. Our stay of the proceedings in the underlying criminal action will be vacated upon finality of this opinion. Good cause appearing, this opinion shall become final within five days of the date hereof. (Cal. Rules of Court, rule 24(b)(3).)

Johnson, J.

We concur: Perluss, P.J.  
Zelon, J.

B176573 Garcia (Not for Publication)

V.

# Savla

The order is affirmed. Respondent is awarded her costs on appeal.

Johnson, J.

I concur:       Zelon, J.

I concur: Perluss, P.J. (Opinion)

B169636 Consumer Advocacy Group, Inc. et al.,

V.

Kinetsu Enterprises of America et al.,

Filed order vacating submission order of October 13, 2005. Additional briefing. Due November 15, 2005

## DIVISION EIGHT

B178824 People (Not for Publication)  
v.  
Medina

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.  
Flier, J.

B179025      Kuhn,      (Not for Publication)  
v.  
Lamphear et al.,

The judgment is affirmed.

Cooper, P.J.

We concur: Boland, J.  
Flier, J.

B176153 Hagstrom et al., (Not for Publication)  
v.  
The Regents Of The University Of California,

The judgment is reversed.

Cooper, P.J.

We concur: Rubin, J.  
Flier, J.

DIVISION EIGHT (Continued)

B174674      Trancas Property Owners Assoc.,  
                 v.  
                 City Of Malibu  
                 Trancas-PCH, LLC

Filed order granting petitions for rehearing. Additional briefing  
due November 15, 2005.